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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/786,034

04/23/2001

Gerardo Castillo

PROTEO.P07CI3

4033

74651 7590 12/10/2009
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EXAMINER

ROYDS, LESLIE A

ART UNIT

PAPER NUMBER

1614

MAIL DATE

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12/10/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09/786,034	4/23/2001	CASTILLO ET AL.	PROTEO.P07CI3

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EXAMINER

Leslie A. Royds

ART UNIT	PAPER
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1614	20091205
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DATE MAILED:

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Commissioner for Patents

NOTICE OF NON-RESPONSIVE AMENDMENT

This notice of non-responsive amendment is in reply to Applicant's amendment filed November 30, 2009, which has been received and entered into the application. Applicant has cancelled claims 20-23 and has added new claim 26.

The MPEP states at Sect. 819: "The general policy of the Office is not to permit the Applicant to shift to claiming another invention after an election is once made and action given on the elected subject matter."

Newly added claim 26 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claim 26 is now directed to a method of reducing, disrupting, dissolving or inhibiting amyloid fibrils comprising the step of administering a therapeutically effective amount of a composition comprising a combination of plant matter from ginkgo biloba, ginseng and Uncaria tomentosa, and one or more substances selected from the group consisting of vitamin E, selenium, niacin or nicotinate, folic acid, vitamin B12 and choline, whereas the claims originally under examination were drawn simply to a pharmaceutical composition comprising, e.g., ginkgo biloba, ginseng and plant matter from a plant of the genus Uncaria, species tomentosa, further in combination with one or more substances selected from the group consisting of ginseng, vitamin E, selenium, niacin or nicotinate, folic acid, vitamin B12 and choline.

The inventions are independent or distinct because they are related as product and process of use and can be shown to be distinct if: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP Sect. 806.05(h)). In the instant case, the presently claimed product can be used in a another materially different process, such as to enhance healthy joint function and to strengthen connective and structural tissues.

Since Applicant has received multiple actions on the merits for the originally presented invention (i.e., the pharmaceutical composition comprising ginkgo biloba, ginseng and plant matter from a plant of the genus Uncaria, species tomentosa, further in combination with one or more substances selected from the group consisting of ginseng, vitamin E, selenium, niacin or nicotinate, folic acid, vitamin B12 and choline), the invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, all claims are withdrawn from consideration as being directed to a non-elected invention. See 37 C.F.R. 1.142(b) and MPEP Sect. 821.03.

The amendment filed November 30, 2009 presenting only claims drawn to a non-elected invention is non-responsive (MPEP Sect. 821.03). The claims are not readable on the elected invention for the reasons described supra. Since the above-mentioned amendment

appears to be a bona fide attempt to reply, Applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction, as well as a proper response to the previous Office Action, in order to avoid abandonment. Extensions of this time period under 37 C.F.R. 1.136(a) are available.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie A. Royds, whose telephone number is (571)-272-6096. The Examiner can normally be reached on Monday through Friday, 9:00 AM to 5:30 PM. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Ardin H. Marschel, can be reached on (571)-272-0718. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

/Leslie A. Royds/
Patent Examiner, Art Unit 1614